

Farm Credit Administration

§ 622.82

hearing shall also be sent to the FCA's Office of General Counsel.

(b) *Appearance.* A petitioner may appear personally or through counsel to submit relevant written materials and oral argument. An attorney is subject to all the requirements and limitations imposed on attorneys in §622.3 of subpart A. A representative(s) of the FCA's Office of General Counsel may participate in the hearing to the extent such representative deems appropriate.

(c) *Written material.* Any written material the petitioner wishes to have considered must be submitted to the designated FCA representative and the FCA's Office of General Counsel at least 10 days prior to the date of the hearing.

(d) *Oral testimony.* Oral testimony may be presented only if expressly permitted by the Board in the notice of hearing. The designated FCA representative may ask questions of any witness.

(e) *Transcripts.* Oral testimony, if any, and oral argument shall be recorded. A copy of the transcript shall be filed with the designated FCA representative, who shall have authority to correct the record sua sponte upon notice, or upon the motion of the petitioner or the representative of the FCA's Office of General Counsel. The designated FCA representative shall promptly serve notice upon the petitioner and the FCA's Office of General Counsel of such filing. Such parties shall make arrangements with the person recording the testimony or argument for copies of the transcript.

(f) *Closing of record.* Upon the request of the petitioner or representative of the FCA's Office of General Counsel, the record shall remain open for a period of 5 business days following the hearing, during which time additional submissions for the record may be made. Thereafter, the record shall be closed.

(g) *Rules of evidence and procedure.* Neither the formal rules of evidence nor the adjudicative procedures of the Administrative Procedure Act (5 U.S.C. 554-557) or subpart A of these rules shall apply to the informal hearing ordered under this subpart unless the Board orders that they apply in whole or in part.

§ 622.81 Default.

If the subject individual fails to file a petition for a hearing, or fails to appear at a hearing, either in person or by an attorney, or fails to submit a written argument where oral argument has been waived, the notice shall remain in effect until the information, indictment, or complaint is finally disposed of and the order shall remain in effect until terminated by the Board.

§ 622.82 Decision of the Board.

(a) *Recommended decision.* Within 30 days of the hearing, the designated FCA representative shall make a recommendation with findings and conclusions to the Board concerning the notice or order of suspension, removal, or prohibition.

(b) *Final decision.* Within 60 days of the hearing, the Board shall notify the subject individual and the FCA's Office of General Counsel whether the suspension or removal from office, or prohibition from participation in any manner in the affairs of the institution, will be continued, terminated, or otherwise modified. The Board's final decision, if adverse to the individual, shall contain a statement of the basis thereof. The Board may satisfy this requirement where it adopts the recommended decision of the designated FCA representative.

(c) *Guilt not an issue.* In deciding upon any suspension or prohibition by notice, the ultimate question of the guilt or innocence of the individual with respect to the criminal charge that is outstanding will not be considered. A finding of not guilty or other disposition of the charge shall not preclude the Board from thereafter instituting removal proceedings pursuant to section 5.28 of the Act.

(d) *Effective period.* A removal or prohibition by order remains in effect until terminated by the Board. A suspension or prohibition by notice remains in effect until the criminal charge is finally disposed of or until terminated by the Board.

(e) *Reconsideration.* A suspended or removed individual may petition the Board to reconsider the decision any time after the expiration of a 12-month period from the date of the decision, but no petition for reconsideration